

MT LEGISLATIVE HISTORY

Chapter 180 1981

Bill (H) 405 S _____

Original bill & hist. / C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) Feb 02 / C

Hearing Date(s) Mar 06 / C

_____ C

Mar 07 / C

_____ C

_____ C

_____ C

_____ C

Date Out Feb 02 / C

Mar 07 / C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

HOUSE BILL NO. 405
INTRODUCED BY KREDY

IN THE HOUSE

January 21, 1981	Introduced and referred to Committee on Judiciary.
February 2, 1981	Committee recommend bill do pass. Report adopted.
February 3, 1981	Bill printed and placed on members' desks.
February 5, 1981	Second reading, do pass.
February 6, 1981	Considered correctly engrossed.
February 7, 1981	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 9, 1981	Introduced and referred to Committee on Judiciary.
March 9, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 11, 1981	Second reading, concurred in.
March 13, 1981	Third reading, concurred in as amended. Ayes, 45; Noes, 2.

IN THE HOUSE

March 14, 1981	Returned from Senate with amendments.
March 18, 1981	Second reading, amendments concurred in.

March 20, 1931

Third reading, amendments
concurrent in. Ayes, 93; Noes, 0.
Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 405

INTRODUCED BY Kieding

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR PRELIMINARY INJUNCTIONS AND TEMPORARY RESTRAINING ORDERS TO PROTECT A PERSON FROM ABUSE BY A SPOUSE; AMENDING SECTIONS 27-19-201 AND 40-4-106, MCA."

WHEREAS, former Governor Judge appointed a task force to recommend ways in which spouse abuse could be stopped; and

WHEREAS, spouse abuse weakens the dignity and integrity of the family unit, and the state therefore has a substantial interest in aiding spouse abuse victims through the enforcement of state laws; and

WHEREAS, the task force recognized that the state's current laws on obtaining injunctions and restraining orders are not providing adequate protection to some spouse abuse victims and their families.

THEREFORE, it is the intent of this act to grant spouse abuse victims extraordinary relief in the form of preliminary injunctions and temporary restraining orders.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-4-106, MCA, is amended to read:

"40-4-106. Temporary order or temporary injunction.
(1) In a proceeding for dissolution of marriage or for legal separation or in a proceeding for disposition of property or for maintenance or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, either party may move for temporary maintenance or temporary support of a child of the marriage entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) As a part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary injunction for any of the following relief:

(a) restraining any person from transferring, encumbering, concealing, or otherwise disposing of any property except in the usual course of business or for the necessities of life and, if so restrained, requiring him to notify the moving party of any proposed extraordinary expenditures made after the order is issued;

(b) enjoining a party from molesting or disturbing the peace of the other party or of any child;

(c) excluding a party from the family home or from the home of the other party upon a showing that physical or emotional harm would otherwise result;

-2- INTRODUCED BILL

HB 405

1 (d) enjoining a party from removing a child from the
2 jurisdiction of the court; and

3 (e) providing other injunctive relief proper in the
4 circumstances.

5 ~~(3) A person may seek the relief provided for in~~
6 ~~subsection (2) of this section without filing a petition~~
7 ~~under this part for a dissolution of marriage or legal~~
8 ~~separation by filing a verified petition alleging physical~~
9 ~~abuse against the petitioner by a spouse and requesting~~
10 ~~injunctive relief under Title 27, chapter 19, part 3. Any~~
11 ~~preliminary injunction entered under this subsection must be~~
12 ~~for a fixed period of time, not to exceed 1 year, and may be~~
13 ~~modified as provided in Title 27, chapter 19, part 4, and~~
14 ~~40-4-208.~~

15 ~~(3)(4)~~ The court may issue a temporary restraining
16 order without requiring notice to the other party only if it
17 finds on the basis of the moving affidavit or other evidence
18 that irreparable injury will result to the moving party if
19 no order is issued until the time for responding has
20 elapsed.

21 ~~(4)(5)~~ A response may be filed within 20 days after
22 service of notice of motion or at the time specified in the
23 temporary restraining order.

24 ~~(5)(6)~~ On the basis of the showing made and in
25 conformity with 40-4-203 and 40-4-204, the court may issue a

1 temporary injunction and an order for temporary maintenance
2 or support in amounts and on terms just and proper in the
3 circumstance.

4 ~~(6)(7)~~ A temporary order or temporary injunction:

5 (a) does not prejudice the rights of the parties or
6 the child which are to be adjudicated at subsequent hearings
7 in the proceeding;

8 (b) may be revoked or modified before final decree on
9 a showing by affidavit of the facts necessary to revocation
10 or modification of a final decree under 40-4-208; and

11 (c) terminates when the final decree is entered or
12 when the petition for dissolution or legal separation is
13 voluntarily dismissed."

14 Section 2. Section 27-19-201, MCA, is amended to read:

15 "27-19-201. When preliminary injunction may be
16 granted. An injunction order may be granted in the following
17 cases:

18 (1) when it shall appear that the applicant is
19 entitled to the relief demanded and such relief or any part
20 thereof consists in restraining the commission or
21 continuance of the act complained of, either for a limited
22 period or perpetually;

23 (2) when it shall appear that the commission or
24 continuance of some act during the litigation would produce
25 a great or irreparable injury to the applicant;

1 (3) when it shall appear during the litigation that
2 the adverse party is doing or threatens or is about to do or
3 is procuring or suffering to be done some act in violation
4 of the applicant's rights, respecting the subject of the
5 action, and tending to render the judgment ineffectual;

6 (4) when it appears that the adverse party, during the
7 pendency of the action, threatens or is about to remove or
8 to dispose of his property with intent to defraud the
9 applicant, an injunction order may be granted to restrain
10 the removal or disposition;

11 ~~(5) when the applicant alleges physical abuse by a~~
12 ~~spouse under the provisions of 40-4-106."~~

-End-

HB 405

HOUSE BILL 405 REP. KEEDY stated this bill would allow courts to issue restraining orders in alleged spousal abuse. A study of needs of battered spouses and ways to deal with it was conducted. The social services presently collects a fee from marriage licenses to operate. This would try to increase public awareness of services provided including temporary shelter and help.

The law should be changed to give spousal abuse the ability to obtain restraining orders without filing for a divorce or separation. Spousal abuse is usually connected to child abuse. Spousal abuse has a damaging influence on the children. Many people do not want to file for separation or divorce because they feel the marriage is salvageable; at times the restraining order is necessary.

JONAS ROSENTHAL, Task Force on Domestic Violence, stated there was 3,116 reports of domestic violence from October of 1979 to October of 1980. He feels there were many more that were not reported. The problem is that lawyers tell the victim to file for a divorce. Sometimes the marriage is young and can be saved. Sometimes their religion does not allow divorce. This bill tries to keep families together. ROSENTHAL stated if the committee feels they should not become involved in the family, they should realize everytime a police officer has to go to a domestic disturbance the government is involved.

TOM HONZEL, County Attorneys, stated they don't really have a position on this bill. Often times the victim does go to a county attorney to do something. Many times they want a peace bond or restraining order. The county attorneys do not have the authority to give out peace bonds. A restraining order is a civil matter which county attorneys cannot be involved with. HONZEL stated the county attorney has to advise the person to go to a private practice attorney. A restraining order tries to prevent disruption until the court can hear the case.

DONNA WORTH stated she was a battered wife. Getting a restraining order was not a problem because she filed for divorce. WORTH stated the instances of three women who were battered wives.

CARYL BORCHERS, Chairman of the State Task Force on Spousal Abuse, gave written testimony. EXHIBIT 6.

MIKE MELOY, Montana Trial Lawyers Association, was in favor of this bill.

There were no opponents.

REP. SHELDEN was curious about the time involved. If a battered wife does not receive a restraining order the next time it does not help? MELOY stated if the victim is not willing to obtain

a restraining order she does not have protection.

HOUSE BILL 440 REP. JENSEN, sponsor, stated this bill is to provide a graduated system of fines for violation of the conservation speed limit. A \$5 penalty would be placed on speeds greater than the speed limit but less than or equal to five miles per hour in excess of the speed limit. A \$25 fee in excess of 60 mph up to 70 mph and a \$50 fee for speeds greater than 70 mph. This would encourage compliance with the speed limit and cover the costs of processing.

REP. JENSEN stated there is an error in the draft, on page 2 line 1 following purpose "of this section only" should be stricken and inserting subsection 1A only of this section. On page 2, lines 2 and 3 following "shall be" reinstate the stricken words. The \$4 should be stricken.

WALTER MILLER, Montana Highway Patrol, supports this bill. Compliance with the 55 mph speed limit will reduce the accidents. It is difficult to get compliance with this law. Five dollars is a joke to most people. MILLER stated they would support anything that would encourage compliance including a more expensive fee. MILLER gave a proposed amendment. EXHIBIT 7.

ALBERT GOKE, Highway Safety of DCA, handed out a graph. EXHIBIT 8. GOKE stated he believes the speed limits saves lives. He feels it will be a deterrent if the fines are increased.

LARRY MAJERUS, Department of Justice, supports this bill.

BEN HAVDAHL, Montana Motor Carriers, supports this legislation. HAVDAHL stated there is alot of truck traffic driving through Montana and there is a problem with the truck drivers driving in excess of the speed limit. Not only should the safety portion be realized but the fuel that is wasted should be evaluated. HAVDAHL gave the committee a book entitled "How to Save Truck Fuel" by the Joint Industry-Government Voluntary Truck and Bus Fuel Economy Improvement Program. Statistics were read to the committee from the book. Jim Mandy was in support of the bill. There were no opponents.

REP. JENSEN closed the bill and gave EXHIBIT 9 for the proposed amendments.

REP. EUDAILY questioned if \$14.00 a day was the correct figure to process a ticket. MILLER replied he did not know the exact figure, but by writing a ticket, court proceedings, clerical work, it would average to be about \$14.00. REP. EUDAILY asked if this would be a deterrent. MILLER felt it would be.

a day. REP. ANDERSON asked REP. MATSKO if police officers were paid the fee. REP. MATSKO replied no.

REP. CURTISS inquired what a court would determine any other necessary expenses. REP. KEEDY stated documents or exhibits, transportation, copies of things, etc.

JIM LEAR read to the committee that jurors receive \$12 for jury duty and \$7.50 for inquests.

The motion of do pass passed with only REP. HANNAH voting against it.

HOUSE BILL 403 REP. KEEDY moved do pass.

REP. KEEDY moved to amend line 6 striking "capacity of mental disease or defect" and inserting "fitness to proceed". The amendment passed unanimously.

REP. BENNETT moved on page 3, line 24 to strike "if he has any". The amendment passed with REP. KEEDY and REP. EUDAILY voting no.

REP. EUDAILY stated he could see the problem the Department of Institutions will have. They will have no way of knowing how many people will be referred to them. Their budget is set up by how many people they now have.

REP. HUENNEKENS stated the burden should be a state function. The county should not have to pay.

REP. KEEDY moved do pass as amended. The motion passed with DAILY, YARDLEY, HANNAH, EUDAILY, BROWN and KEYSER voting no.

HOUSE BILL 405 REP. EUDAILY moved do pass.

REP. HANNAH asked on page 3, line 12 if there was any reason for one year as the time limitation. REP. KEEDY stated the injunction could stand for one year. It would be time consuming and inconvenient to refile every three months or so.

The motion of do pass carried. REP. SHELDEN was absent during the vote.

The meeting adjourned at 11:15 a.m.


KERRY KEYSER, CHAIRMAN
mr.

The Honorable Kerry Deyser, Chairman
House Judiciary Committee
Helena, Montana 59601

Dear Chairman Keyser and Members of the House Judiciary Committee.

I am writing to ask you to support the continuation of the Domestic Violence Grant Program through the marriage license fee which Social and Rehabilitation Services has been administering since the 1979 Legislature, and to support HB 405 (an act to provide for Restraining orders to protect a person from Abuse by a Spouse).

Since the 1979 Legislature, the State Task Force Members have continued to do outreach to other Communities so that there are more 'support systems' in more Communities working on the problem of Domestic Violence throughout the State of Montana. I thought I would send along a more recent update for you. Asterisk denotes operating Shelter.

**Great Falls has done outreach education and training recently to:

- A. Hingham, Gilford, Kremlin, Havre, Browning, CutBank, Shelby
- B. Choteau and Fairfield
- * C. Butte-(who have been operating on a 'Safe Home-private home system' for several years, now have a Shelter rennovated and hope to have it operational by February 1981.)
- D. Several Counseling Workshops which included counselors from Region II.

**Missoula has done outreach education and training recently to:

- A. Hamilton, Stevensville, Darby
- B. Workshop for Kalispell and Whitefish. Kalispell received a State Grant this year for their Domestic Violence Crisis Line and did outreach to:
- C. Libby

Helena has done outreach and education and training recently to:

- A. Townsend
- B. Boulder

Bozeman has done outreach and education and training recently to:

- A. Livingston- 6 weeks training course on Advocacy
- B. White Sulpher Springs

** Billings Started their Shelter this past October 1980. Previously had "Safe Homes".

Twin Bridges, Dillon, and Hardin also received State Grants this year to continue their work in the field of Domestic Violence.

Glendive, Glasgow, Miles City- also received their 17-county State Grant and have done outreach to: Sydney.

In addition, the State Task Force is contracting with Manpower to write a 'training packet' on Domestic Violence. Task Force Members made a presentation to the State Mental Health Council to say that we would be happy to use this 'training packet' to present to the different Mental Health Regions if they would like us to. The State Task Force Members have been doing the education and training for 3 years on a volunteered time and money basis, including all of the State Task Force Meetings.

A Task Force Member also made a presentation to the County Attorney's Convention this summer.

Mid-January of this year, a State Workshop was held on Advocacy Training in Bozeman.

In June, the State Task Force made a presentation of a proposed 'Hospital Protocol on Spouse Abuse Assaults' which the State Hospital Administrator Board voted to have reviewed by one of their medical teams. The Medical Team from Columbus Hospital in Gt. Falls reviewed the protocol and in December the Hospital Administrators approved the Protocol and will have it operational in the 61 General Hospitals in Montana in January 1981. We plan to also present this Hospital Protocol to the Malmstrom Air Force Base Hospital and to the Federal Hospitals also for use on the Indian Reservations.

Our State Grant program for Domestic Violence (administered by Social and Rehabilitation Services) had requests for \$135,000 and could only fund \$68,000. We funded each Grant request but not for the amount needed obviously.

As a Shelter Director (Great Falls Mercy Home), I have seen many reasons why a Shelter can be an effective means to educate families on Domestic Violence in addition to preventing homicides.

- A. Domestic Violence calls are the number one cause of police officers' deaths since 1972 (FBI Statistics).
- B. 41% of female homicides are committed by husbands (Murray Straus, Sociologist).
- C. Kansas City Police Department found that in 85% of domestic Homicides police were called once prior to the murder and in 50% of the cases were summoned five times or more.

Violence is learned behaviour. Spouses who are forced to remain in abusive situations will in effect perpetuate the 'Cycle of Violence' as children learn violence is an acceptable way of life. Shelters and Domestic Violence Support Programs can help Families get counseling in addition to helping to educate Communities on this pervasive problem of Violence.

Sincerely yours,

Caryl Borchers

Caryl Borchers, Chairman
State Task Force On Spouse Abuse
3251 4th Avenue South
Great Falls, Montana 59405

Since May 1977

1. Unduplicated Count of Program Beneficiaries (in shelter)	1185	TOTAL
1a. Total Continuing from Previous Fiscal Year		8
1b. Total New for the Year		269
1c. Total Outreach Advocacy for the Year		284

WOMEN AND CHILDREN IN SHELTER

2. AGE GROUP	TOTAL	YTD <i>Yearly total to date for 1980</i>
2a. Infants under 5	8	73
2b. Between 5 and 12	5	53
2c. between 13 and 17	2	14
2d. Between 18 and 29	6	80
2e. Between 30 and 64	3	57
2f. 65 and over	0	00

3. SEX	TOTAL	YTD
3a. Male	5	63
3b. Female	19	225

4. ETHNIC BACKGROUND	TOTAL	YTD
4a. White	21	196
4b. Black	00	1
4c. Hispanic	00	6
4d. Oriental	2	13
4e. Native American	1	57
4f. Other ethnic minority	0	4
4g. Not known	0	0

5. FAMILY INCOME	MONTH	YTD
5a. Below official poverty level	6	52
5b. At near poverty level	1	46
5c. Middle income locality median	2	45
5d. Upper Income	0	2
5e. Not known	0	0

6. USE	TOTAL
6a. Number of persons at the shelter	24
6b. Number of women at the shelter	9
6c. Total days used in the shelter (women)	94 days
6d. Total beds occupied	23
6e. Average length of stay	10.3 days

7. STATUS OF WOMEN SEEKING AID	TOTAL	YTD
7a. Battered	5	73
7b. Transient	3	21
7c. Transient and battered	2	10
7d. Psychological trauma (fear of abuse, confusion...)	1	32

8. LOCATION OF RESIDENCE (in shelter)	MONTH	YTD
8a. Cascade County	7	157
8b. Montana	1	60
8c. Other (out of state)	2	19

9. REFERRED FROM		MONTH	YTD
9a.	Crisis Center	4	59
9b.	Law Enforcement	2	49
9c.	SRS	0	18
9d.	Other	3	39
10. OUTREACH AND TELEPHONE ADVOCACY		TOTAL	YTD
<u>27</u> clients served this month			
10a.	Individuals relocated in Cascade County	3	43
11. AID PROVIDED			
11a.	Shelter		
11b.	Meals <u>530</u> meals		
11c.	Transportation		
11d.	Support Groups (average of 10 people served per month)		
12. VOLUNTEER HOURS (TO DATE) (<u>37,514</u>)		HOURS	
12a.	Houseparent	248	
12b.	Volunteers	293	

REFERRED FROM AND REFERRED TO:

S.R.S.	Area Churches
Legal Aid	Salvation Army
Crisis Center	Montana Job Service
Opportunities Inc.	WIC
Women's Group	WIN
YWCA	C.E.T.A.
St. Vincent de Paul	Sheriff's Dept.
Chaplains	Mental Health
Out of town (shelter exchange)	FISH
Buchanan Enterprise	Hospitals
Home Bound Teaching	GF Clinic
Detox Center	County Attorney
Passages	Women's Resource Center
Great Falls High School	Private Lawyer
Court of Conciliation	Indian Ed. Center
Private psychiatrist	Wesley Center
Alcoholics Anonymous	Franklin School
Alanon	

SPONSOR

ready

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Rules of Criminal Procedure (attached Exhibit A) and said that the reason for the words "prior to trial" is an attempt to prevent the costly summoning of a jury for a trial that ends in plea agreement. He added that using statements obtained during a plea agreement for later impeachment might deter plea bargaining, and referred to existing perjury laws which would cover the situation.

Senator Anderson asked Rep. Yardley if he and the county attorneys had ever tried to get together on these issues, and was told that Rep. Yardley had not been on the subcommittee which had handled that phase.

CONSIDERATION OF HOUSE BILL 405:

TO PROVIDE FOR PRELIMINARY INJUNCTIONS AND TEMPORARY RESTRAINING ORDERS
TO PROTECT A PERSON FROM ABUSE BY A SPOUSE.

Rep. Keedy, District 18, Kalispell, presented the bill and said that it was an outgrowth of the 1977 session, in which a joint resolution was passed which directed state agencies to study the problems and needs of battered spouses and their families, and make recommendations on those needs. One of the results was asking for the right to get protective orders without dissolution of the marriage, or filing criminal charges against the abusive spouse. Rep. Keedy cited domestic violence as a problem of enormous proportions, saying it is a leading cause of death to police officers, and one of the largest causes of death to women, as well as a threat to the safety and happiness of children. He said that the intent of the bill is to allow the salvaging of a marriage while providing relief for the victims.

Jonas Rosenthal, of the Task Force on Domestic Violence, supported the bill, saying that Rep. Keedy's remarks covered the subject pretty completely.

Donna Wirth, Helena, supported the bill as a battered spouse herself, and told the committee of injury and damage suffered by three women who had sought a restraining order without first dissolving their marriages. She said that had this type of protection been afforded, they would have possibly not suffered to the extent they did.

Carol Borchers, of the State Task Force on Spouse Abuse, presented a letter outlining their work (attached Exhibit B) and added her support to the bill.

Mike Meloy, representing the Montana Trial Lawyers Association, and Tom Honzel, of the County Attorneys Association, also spoke in support of the bill.

Senator Mazurek suggested that on page 5, line 11, "alleges"

57th Meeting
be changed to "when it shall appear", or other language which would require more than someone alleging the abuse had occurred before a person could be forcibly removed from his home.

Senator S. Brown said that he wanted to be sure that the victim could still get a temporary restraining order, and Rep. Keedy said that the new language on page 3 would assure that.

CONSIDERATION OF HOUSE BILL 403:

TO PROVIDE THAT ONLY THE DEFENDANT IN
A CRIMINAL ACTION MAY RAISE HIS LACK
OF FITNESS TO PROCEED.

Rep. Keedy presented the bill, describing it as a by-product of HB 877, which attempted to eliminate the insanity defense in criminal cases. He stated that he would like this bill amended on page 1, line 18, following "46-14-201", by inserting "or raises the issue of his fitness to proceed,". He left a copy of this amendment with this committee (attached Exhibit C).

Tom Honzel, representing the County Attorneys Association, pointed out the language on the bottom of page 2 and the top of page 3, regarding who should pay for the commitment. He said that when a defendant is kept in a mental institution when he has been sent for an evaluation and adjudged not able to stand trial, the fees are charged to the county. He felt that since the state is liable for this cost when the defendant is institutionalized after a trial, it should stand the cost also under the first circumstance. For that reason, he opposed passage of the bill.

Karen Mikota, representing the League of Women Voters, opposed the bill because "with the advice of counsel" on line 14 of page 2 had been stricken.

In closing, Rep. Keedy said that those words had been stricken because they were felt to be unnecessary, since everything done by the defendant would be done on the advice of counsel in any event.

Senator Crippen questioned Rep. Keedy about the case where a county attorney notices during the course of his investigation that the defendant is obviously mentally incompetent but, under this bill, would not have the opportunity to raise that question. Rep. Keedy said that this would be the case, and rightfully so, since the question of guilt or responsibility for the crime should be determined by the adversary system in which the defendant is responsible for raising any defenses he may have.

ROLL CALLJUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date March 6, 1981

NAME	PRESENT	ABSENT	EXCUSED
Anderson, Mike, Chr. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)			✓
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

NAME: Jonas Rosen DATE: 3/6/81

ADDRESS: 406 S. Wilson Bozeman, MT 59715

PHONE: 587-1216 (w) 586-1048

REPRESENTING WHOM? Ted Fournier, Director, Wildlife

APPEARING ON WHICH PROPOSAL: HR 405

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: Good Bill

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

DATE: 3/6/81

PHONE 443-3801

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: H.B. 405

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Caryl Borchers DATE: Mar. 6 / 81

ADDRESS: 3251 4th Ave South

PHONE: 761-0707

REPRESENTING WHOM? State Task Force on Spouse Abuse

APPEARING ON WHICH PROPOSAL: HB 465

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

MELROY

DATE:

3/6/81

ADDRESS:

SENIOR 0106

PHONE:

442 2442

REPRESENTING WHOM?

MTLN

APPEARING ON WHICH PROPOSAL:

HB 405

DO YOU:

SUPPORT?

X

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Tom Hoppe DATE: 3-6-81

ADDRESS: Helena

PHONE: 443-5554

REPRESENTING WHOM? County Attorneys

APPEARING ON WHICH PROPOSAL: HB 5, 403, 405

DO YOU: SUPPORT? HA 403-405 AMEND? OPPOSE? HB 5

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Senator Mike Anderson
Chairman
Seante Judiciary Committee
Capitol Station

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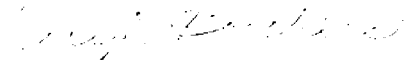
Our State Grant program for Domestic Violence (administered by Social and Rehabilitation Services) had requests for \$135,000 and could only fund \$68,000. We funded each Grant request but not for the amount needed obviously.

As a Shelter Director (Great Falls Mercy Home), I have seen many reasons why a Shelter can be an effective means to educate families on Domestic Violence in addition to preventing homicides.

- A. Domestic Violence calls are the number one cause of police officers' deaths since 1972 (FBI Statistics).
- B. 41% of female homicides are committed by husbands (Murray Straus, Sociologist).
- C. Kansas City Police Department found that in 85% of domestic Homicides police were called once prior to the murder and in 50% of the cases were summoned five times or more.

Violence is learned behaviour. Spouses who are forced to remain in abusive situations will in effect perpetuate the 'Cycle of Violence' as children learn violence is an accepted way of life. Shelters and Domestic Violence Support Programs can help Families get counseling in addition to helping to educate Communities on this pervasive problem of Violence.

Sincerely yours,


Caryl Borchers, Chairman
State Task Force On Spouse Abuse
3251 4th Avenue South
Great Falls, Montana 59405

HB 5 HB 403

HB 405 HB 317

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Karen Tuleta	L.W.V. CDSMDING	317 403 317, 5, 405		✓ ✓
Lucan Sust	MA. HON. SO. ASSOC.	405		
Domestic Violence Task Force	Domestic Violence Task Force	HB 405	✓	
Carol Borchers	Domestic Violence Task Force	HB 405	✓	
Tom Gleason	CAS. CO. ELECTED OFF.	403		
Paul Glynn Davies	CPT			
Jan Brown	self	HB 405	✓	
Jan Brown	MA. Assn Churches	405	✓	

(Please leave prepared statement with Secretary)

to correct a major problem in the sentencing process, not to increase the time served by convicts so much as to have sentences handed out that are more consistent with the time which will actually be served.

DISPOSITION OF HOUSE BILL 20:

Senator S. Brown moved that the bill BE CONCURRED IN, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 405:

Senator Mazurek moved to amend page 5, line 11, following "when", by inserting "it appears"; and following "applicant" by striking "alleges" and inserting "has suffered or may suffer". His motion passed unanimously. Senator S. Brown then moved that the bill BE CONCURRED IN AS AMENDED, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 9:

Senator S. Brown moved that the bill be amended on page 2, line 13, by inserting the stricken language of subsection (f), and relettering it "(e)". His motion passed unanimously. He then moved that the bill BE CONCURRED IN AS AMENDED, and his motion also passed unanimously.

FURTHER CONSIDERATION OF HOUSE BILL 403:

Senator Halligan moved that the bill be amended according to Rep. Keedy's proposed amendment on page 1, line 18, following "46-14-201", by inserting "or raises the issue of his fitness to proceed,". His motion passed unanimously. Senator Mazurek moved to amend page 2, line 14, by inserting "or his counsel" following "defendant". The motion passed over Senator Crippen's objection. Senator Crippen felt that the obligation of the prosecutor and the judge to the defendant should include their duty to raise the question of the defendant's mental competence.



Mike Anderson
Chairman, Judiciary Committee

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date March 9, 19

NAME	PRESENT	ABSENT	EXCUSED
Anderson, Mike, Chr. (R)			✓
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

March 2, 1931

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 405
KEDDY (MAZUREK)

Respectfully report as follows: That HOUSE Bill No. 405
third reading copy, be amended as follows:

1. Page 5, line 11.
Following: "when"
Insert: "it appears"
Following: "applicant"
Strike: "alleges"
Insert: "has suffered or may suffer"

And, as so amended,

~~DO PASS~~

BE CONCURRED IN

Mike Anderson

Chairman.